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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 JOSHUA D. LAMBERT,

11 Plaintiff,

12 v.

13 XLOMARA HUERTAS,

14 Defendant.

CASE NO. 3:19-cv-05980-RJB-JRC

ORDER

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16 The District Court has referred this action to United States Magistrate Judge J. Richard
17 Creatura. Presently pending in this action is plaintiff's second amended complaint, which the
18 Court interprets as a request to supplement the first amended complaint. Dkt. 125. Also pending
19 is the Washington State Hospital ("WSH") defendants' motion to dismiss (Dkt. 100); the
20 Department of Corrections ("DOC") defendants' motion for summary judgment (Dkt. 58); and
21 the WSH defendants' motion for summary judgment (Dkt. 115), which the Court will address in
22 a separately filed report and recommendation.
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1 The Court previously ordered plaintiff to file a second amended complaint on or before
2 February 12, 2021. Dkt. 120, 124. On February 13, 2021, plaintiff filed his request to supplement
3 attempting to supplement his first amended complaint by providing a number of new defendants
4 and proposed revisions to the first amended complaint. Dkt. 125 (Plaintiff attaches his proposed
5 supplements and revisions to his first amended complaint.).

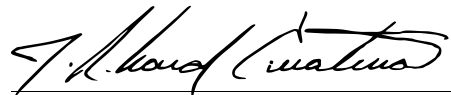
6 However, plaintiff may not supplement his first amended complaint in a disorganized
7 fashion by filing separate documents which are intended to be read together as a single
8 document. Plaintiff has not sufficiently filed a second amended complaint until that complaint is
9 *complete in itself* without reference to the original complaint, first amended complaint, or the
10 supplement that he has filed. Although the Ninth Circuit adopts a flexible and liberal pleading
11 policy for *pro se* litigants, the complaint must still give the fair notice and state the elements of
12 the claims succinctly and plainly. *Jones v. Cmty Redev. Agency*, 733 F.2d 646, 649 (9th Cir.
13 1984); *Lopez v. Smith*, 203 F.3d 1122, 1130–31 (9th Cir. 2000). A complaint which attempts to
14 supplement and reference prior pleadings is not complete in itself, does not set forth all claims in
15 short and plain terms, and is not concise and direct. *See* Fed. R. Civ. P. 8(a). Rather, the filing of
16 a supplement to a complaint presents a risk of piecemeal litigation which precludes orderly
17 resolution of cognizable claims. In addition, an amended pleading operates as a complete
18 substitute for any prior complaint. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992)
19 (*citing Hal Roach Studios v. Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1990)). *Marx*
20 *v. Loral Corp.*, 87 F.3d 1049, 1055-56 (9th Cir. 1996) (internal quotation omitted) (“All causes
21 of action alleged in an original complaint which are not alleged in an amended complaint are
22 waived.”).

1 Therefore, the Court denies plaintiff's request to supplement the first amended complaint.
2 Nevertheless, the Court grants plaintiff one final opportunity to file a single, consolidated second
3 amended complaint on or before March 19, 2021. Plaintiff is directed to file the second amended
4 complaint on the form provided by the Court. The second amended complaint must be legibly
5 rewritten or retyped in its entirety, it should be an original and not a copy, it should contain the
6 same case number, and *it may not incorporate any part of the original complaint or first*
7 *amended complaint by reference.*

8 The second amended complaint will act as a complete substitute for the original complaint
9 and first amended complaint, and not as a supplement. *See Ferdik v. Bonzelet*, 963 F.2d 1258,
10 1262 (9th Cir. 1992). Therefore, in filing the second amended complaint, plaintiff must re-allege
11 any causes of action he wishes to continue to pursue, along with his newly identified defendants,
12 and revised claims. Once plaintiff has filed a second amended complaint, none of his prior
13 complaints will serve any function in this case.

14 The Clerk's office is directed to provide plaintiff with a copy of the § 1983 civil rights
15 complaint form.

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17 Dated this 22nd day of February, 2021.

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21 J. Richard Creatura
22 United States Magistrate Judge
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